

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
Docket #19mj4952
UNITED STATES OF AMERICA, : 1:19-mj-04952-UA
Plaintiff, :
- against - :
PETER BRIGHT, : New York, New York
May 23, 2019
Defendant. :
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PROCEEDINGS BEFORE
THE HONORABLE DEBRA FREEMAN
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE CLERK: United States versus Peter Bright.
Counsel, please state your name for the record.

MR. ALEXANDER LI: Good evening, Your Honor,
Alexander Li for the government, I'm joined here by
Special Agent Elizabeth Jensen from the FBI.

THE COURT: Good evening.

MS. AMY GALLICCHIO: Good evening, Your Honor,
The Federal Defenders by Amy Gallicchio for Peter
Bright who's present.

THE COURT: All right, may I have a date and
time of arrest, please?

MR. LI: Your Honor, the defendant was
arrested yesterday, May 22, 2019, at approximately
2:55 p.m.

THE COURT: Sorry it's taken this long to get
this matter to court, Mr. Bright.

MS. GALLICCHIO: Thank you.

THE COURT: We had a lot of matters today and
we just got rather backed up but you shouldn't have
had to wait that long. Defendant is a US citizen or a
citizen of the United Kingdom?

MS. GALLICCHIO: Dual citizenship, Your Honor,
I understand.

THE COURT: All right. All right, the purpose

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2 of this proceeding this evening, Mr. Bright, is first
3 to inform you of certain rights that you have; second,
4 to inform you of the charges against you; third, to
5 decide whether counsel should be appointed for you;
6 and finally, to decide the conditions, if any, under
7 which you'll be released. With respect to your
8 rights, you have the right to remain silent, you are
9 not required to make any statements. Even if you're
10 already made statements to the authorities, you need
11 not make any further statements. Anything you do say
12 can be used against you.

13 You have the right to be released, either or
14 without conditions pending your trial, unless I find
15 that there are no conditions that would reasonably
16 assure both your presence in court and the safety of
17 the community.

18 You have the right to be represented by
19 counsel during all court proceedings, including this
20 one, and also during any questioning by the
21 authorities. If you cannot afford an attorney, I will
22 appoint one to represent you. I do have a financial
23 affidavit here that's been handed up in connection
24 with the request for appointment of counsel. Just
25 with respect to this financial affidavit, I'm going to

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2 ask you, please, to stand and raise your right hand so
3 I can swear you to the statements in the affidavit.
4 Do you swear the statements in this financial
5 affidavit are true and correct, so help you God, and
6 this is your signature at the bottom?

7 THE DEFENDANT: It is, I do.

8 THE COURT: All right, have a seat. I'm
9 approving the request for appointment of counsel, I'm
10 appointing Ms. Gallicchio to represent you. I see
11 that there is a spouse here who has a fairly
12 significant income, but I'm basing it on defendant's
13 income, unless the income with the spouse is somehow
14 joint.

15 MS. GALLICCHIO: No, they have separate, I
16 mean they're married, obviously, but they share
17 household expenses, that would be the only
18 commonality.

19 THE COURT: At some point someone should
20 explain to me why we ask this question.

21 MS. GALLICCHIO: I know.

22 THE COURT: I mean if it's, I'm actually
23 wondering out loud if it's reported as joint income,
24 is part of this available to defendant, I don't know
25 how that works.

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MS. GALLICCHIO: Right.

THE COURT: Maybe you can check into that and get back to me if there is any issue there that I should be aware of.

MS. GALLICCHIO: Okay.

THE COURT: Thank you, appreciate that.

MS. GALLICCHIO: Sure.

THE COURT: Where was I, the complaint. Elizabeth Jensen, if you could stand and raise your right hand. Do you swear the statements contained in this complaint are true and correct, so help you God, and that's your signature at the back?

SPECIAL AGENT EXLIZABETH JENSEN: I do.

THE COURT: So you have been charged, Mr. Bright, in a complaint with one count of violating title 18 of the United States Code, Section 2422(B) and 2. The crime is described as attempted enticement of a minor to engage in illegal sexual activity. The crime charged carries with it a number of possible sanctions, including possible jail time.

Counsel, have you received a copy of the complaint?

MS. GALLICCHIO: Yes, I have, Your Honor.

THE COURT: Have you had a chance to read and

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review it with your client?

MS. GALLICCHIO: Yes, Your Honor.

THE COURT: Do you waive its public reading?

MS. GALLICCHIO: Yes, I do.

THE COURT: All right, Mr. Bright, because you've been charged in a complaint you also have the right to a preliminary hearing at which the government would have the burden of establishing that there is probable cause to believe that this crime was committed and that you are the person who committed the crime. If probable cause is not established you'd be released from this charge. If it is established, the government would then have the right to proceed to trial against you.

If, after this proceeding today, you're being held in custody, you would have the right to have that preliminary hearing held within two weeks, fourteen days, otherwise, if you're not in custody it need only be held within three weeks or twenty-one days. You should also understand though that there won't be any preliminary hearing at all if at some point between and the date when the hearing is scheduled, you are either indicted by a grand jury, or what's called a criminal information is filed against you by the government.

What is the government's position here with

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respect to bail?

MR. LI: The government requests detention,
Your Honor.

THE COURT: Is there going to be an argument?

MS. GALLICCHIO: Yes, Your Honor.

THE COURT: Okay. All right, well let me hear
first from the government as to why you believe
detention is appropriate here.

MR. LI: Your Honor, let me just first say
that this is a presumption case due to the nature of
the offense.

THE COURT: Right.

MR. LI: I think this is a case that calls out
for detention that really shows that the presumption
is warranted, both for the risk of flight and for the
danger to the community. On the risk of flight, Your
Honor, just in the interest of time I'll just refer
you to the Pretrial Report, the defendant is a dual
citizen, he has affiliations with the United Kingdom,
and I'll leave it at that. It's really the
dangerousness to the community that gives the
government the greatest pause.

As Your Honor can see from the complaint,
during the course of the text messages, the defendant

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stated that the was currently engaged in "training" an 11 year old girl from the Bronx. I understand he has since recanted that statement, he said it's not true, but we don't know whether that's true and we take him at his word, or at least we take him at his word that it's a possibility that that may, in fact, be going on.

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In addition, Your Honor, after he was arrested the defendant gave post arrest statements, including that he, excuse me, Your Honor, including that the defendant is currently engaged in text communications with a 17 year old girl and a 14 year old girl. With respect to the 17 year old girl, the defendant stated that he, that she had sent him a nude photograph, that he had deleted it, and that he had planned to meet with her and potentially --

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THE COURT: I'm sorry, this was from, this was post arrest statements?

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MR. LI: Post arrest statements, Your Honor. And I mention this not for the purpose of any kind of propensity, but only to establish that there is a risk to the community if, in fact, he is released.

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With respect to the 14 year old girl, the defendant stated that she also might have sent him a

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nude photograph, and that this 14 year old girl was the sister of the 17 year old girl. Your Honor, I don't know what plans the defendant may or may not have with respect to the three potential victims that are out there, but there are three potential victims out there and we don't know if there are any more and who they might be.

I think because of the nature of this offense, this is an online child enticement case, or attempted child enticement case, any access to the facilities of online resources to reach out potentially to these individuals, to potentially have them come to his home, or for him to go to their homes, even in the context of home detention they could come to him, we simply don't see any way to mitigate that risk of danger to the community, Your Honor. And for those reasons we would ask for detention.

MS. GALLICCHIO: Your Honor, I mean I, he lives with his wife in an apartment and I do think that home detention, home confinement, home incarceration is a viable option here, is a legitimate option here. And I think that obviously no one can predict anyone's conduct, and so it's hard for me to even answer that concern. But I think that certainly

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2 being on home confinement can address that concern.

3 Certainly other restrictions that the Court
4 can impose, and I would agree to essentially all of
5 the conditions that Pretrial Services has suggested,
6 which would restrict --

7 THE COURT: If he were to be released there
8 are whole bunch of mandatory conditions.

9 MS. GALLICCHIO: Oh, yes, of course, as a
10 result of the nature of this offense.

11 THE COURT: The Adam Walsh Act requires very
12 restrictive conditions.

13 MS. GALLICCHIO: Yes, for that very reason, to
14 address the concerns that the government raises and
15 that the Court may have. So there are conditions,
16 there is a contemplation that people with these sorts
17 of charges would be released, therefore these are the
18 conditions that should be in place.

19 Mr. Bright has no criminal record, he's 38
20 years old, I'm sure the government has conducted an
21 investigation of his electronic devices or begun that
22 investigation. It doesn't appear that there is a
23 history of the behavior that's charged here. And, Your
24 Honor, he, like I said, the conditions that are
25 suggested here are certainly sufficient to address the

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concerns.

Risk of flight, I'm not sure if the Court wishes me to address that. Yes, he does have dual citizenship, however, his wife is a US citizen, she's born here in the United States and obviously they live together. His passports I think have been confiscated by the government and, therefore, it would impossible for him to leave the United States.

THE COURT: There are no children?

MS. GALLICCHIO: They don't have children, no. Her entire family here is in the United States and obviously they are married.

THE COURT: Is defendant working?

MS. GALLICCHIO: He is working, Your Honor, and he actually works from home.

THE COURT: Does he work from home with a computer?

MS. GALLICCHIO: He does.

THE COURT: Does he work from home on the internet?

MS. GALLICCHIO: Yes. I mean he --

THE COURT: He wouldn't be able to do that with the mandatory conditions.

MS. GALLICCHIO: I think one of the conditions

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2 was, well, with respect to like condition thirteen,
3 defendant may possess his desktop computer for
4 employment purposes, but must submit his computer for
5 monitoring. As a matter of fact, I believe the
6 government has confiscated his desktop computer, but
7 were he to work from home, he would have to he would
8 need a computer because of the nature of his work.
9 And certainly would be willing to or would comply with
10 the condition that it be subject to monitoring by
11 Pretrial Services.

12 I mean short of that, he would have to resign
13 his job, which --

14 THE COURT: Yes, I'm looking at the proposed
15 conditions twelve and thirteen, they both say no
16 internet enabled device or computer apart from one
17 computer for employment purposes must be submitted for
18 monitoring.

19 MS. GALLICCHIO: Um-hmm. Really the only
20 reason he would need to leave his home is that he and
21 his wife do go to counseling. He does have, as you can
22 see, there is a mental health component here, he does
23 suffer from depression and ADHD. He is on medication,
24 he does attend therapy. He and his wife also attend
25 couples therapy. I think it would be in his interest

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to continue that therapy. And so, you know, with the permission of the Court and Pretrial Services, would be something we would like him to be able to continue attending. But short of that, there really is very --

THE COURT: So I'm not concerned about the facts actually underlying this complaint because this was undercover, but I am concerned the government says based on statements that defendant was making in his communications with the undercover and after arrest, I am concerned there are other minors out there with whom he's had actual contact and whom he actually already knows. That is a reason for concern because we would not want the possibility of that continuing with those individuals or anyone else.

You say he's home with his wife and so, therefor, there is no possibility of anyone coming into his home, is his wife there 24/7?

MS. GALLICCHIO: No. No, she's not there 24/7.

THE COURT: So how can I be assured that what the government says could happen here will not, or that the conditions, you know, would be sufficient to obviate those concerns that minors with whom he has already had contact --

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MS. GALLICCHIO: Well, with respect to, I think we're talking about there's three of them in text conversation on this site, there was a discussion of an eleven year old. That is the statement that --

THE COURT: That's the first statement and then the government proffers that after arrest defendant made statements that referred to two others.

MS. GALLICCHIO: Right. But with respect to that person, that was in the text conversations which he denies that being an actual fact.

THE COURT: I understand that. I understand that, but he, in the recorded statement, even if he is now denying it, he does indicate that he has been seeing this girl on and off for a couple of months. So he does say she's in the Bronx, but that doesn't necessarily, I don't know where he was living. Yes, I do know, because I have the address which was where, in Brooklyn.

MS. GALLICCHIO: Well, other than I can tell you that he's denying that, I don't know what else to tell the Court with respect to that. But I think that if his computer is monitored, then there is no ability for him to have communication with anyone --

THE COURT: Well that's not really true, because if he has already managed to hook up with

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2 somebody and has that person's phone, or text, or
3 something, he doesn't need a computer to be in touch
4 with that person. He doesn't need a computer to find
5 a new person if he's already in contact with people
6 and says, you know, here's my number and so on. I
7 just, I don't know, it just gives me pause.

8 MS. GALLICCHIO: Well, Your Honor, he would
9 certainly be willing to give up a phone if that was a
10 requirement of release, an ability to communicate by
11 phone.

12 THE COURT: Well I can't take all phones out
13 of a household, it's a safety issue. I mean somebody
14 has to be --

15 MS. GALLICCHIO: Well I think his wife has a
16 cell phone, I don't believe they have a landline, they
17 don't have a landline. So she has a cell phone.

18 THE COURT: Are you his wife?

19 MS. GALLICCHIO: That's his wife, she's in
20 court, yes. So his ability to use a phone can be
21 restricted. I mean obviously we can't monitor someone
22 24/7, we can't put a camera in their home, I get that,
23 but that should not, that's an impossibility. And
24 that's the case with anyone who is released on bail,
25 people who are accused of conducting drug

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organizations and use phones for that business, they
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THE COURT: Sure, but if we, look, if we have
information that somebody's been doing drug dealing
out of their home, they're not going to go back to
electronic monitoring in their home. That doesn't
make any sense to try to ameliorate the issue. I
don't know here what has happened, if anything, I
don't know where, I don't know precisely with whom, I
don't know through what sort of communication, you
know, it's a, the unknown is, itself, concerning
because you have to worry about the community which
certainly includes minor children in the community and
the obligation is to make sure that that issue of
danger is addressed. And I am, you know, if I had more
specific information I could say, oh, this is not an
issue because, but I don't know, I'm guessing as to
the child would never come to the home, that he
doesn't have a phone number, that he doesn't have
other ways of contacting them, that that's all fine, I
just don't know that. I'm concerned that he's
identified at different points in time others besides
the presumably fictitious children in the undercover
operation.

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2 MS. GALLICCHIO: Right. Well, I mean he would
3 now be under Court restriction and Court supervision,
4 so I think it would be incredibly risky and foolish
5 and he would know that for him, he's going to be
6 monitored, he's going to be -- he would be if the
7 Court were to release him by Pretrial Services.
8 Certainly he's under the microscope at this point. So
9 I, other than having someone stand watch outside of
10 his home which certainly can't be done, there isn't an
11 answer that I can give to the Court, other than the
12 fact that the circumstances are different now in that
13 he is now being accused of a crime and it certainly
14 would be incredibly risky for him to jeopardize any
15 liberty the Court might grant him.

16 And I suspect that the government will
17 continue investigating, will get search warrants for
18 his devices and will continue investigating and will
19 make determinations about whether there actually are
20 other risks, were other contacts, and could certainly
21 notify the Court if that happens and can make an
22 application to change his bail conditions based on
23 their investigation.

24 THE COURT: Anything further from the
25 government?

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2 MR. LI: Your Honor, just listening to this
3 discussion, I'm sort of struck because the very
4 difficulty that I think counsel has honestly
5 acknowledged, that monitoring the defendant and the
6 impossibility, frankly, of putting somebody there to
7 monitor him constantly or putting a camera there to
8 monitor him constantly is exactly the standard for
9 which detention would be required. If there is no
10 condition or combination of conditions, that can
11 reasonably assure the safety of the community, then
12 that is the reason for remand. And I think, Your
13 Honor, that standard is met here.

14 MS. GALLICCHIO: I just --

15 THE COURT: Go ahead.

16 MS. GALLICCHIO: I just, it would be almost
17 impossible in any case though --

18 THE COURT: I know, I understand.

19 MS. GALLICCHIO: So what's reasonable, what
20 can we reasonably do? And I do --

21 THE COURT: I understand that, the factor that
22 is troubling me here is the statement which he is now
23 saying was not true, maybe it was some sort of puffery
24 and it wasn't really true --

25 MS. GALLICCHIO: Right.

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THE COURT: About an 11 year old girl, but then after arrest and presumably he's being arrested, and he knows he's in trouble, and he's still telling law enforcement that there are I gather two other girls with whom he's had contact, am I understanding correctly?

MR. LI: Yes, Your Honor. I don't know whether he had contact with them, Your Honor, but he stated that he was having text communications with these two girls, a 17 year old and a 14 year old. I don't know whether any contact was ever made, Your Honor.

THE COURT: I'm having trouble with this. I'm having trouble with finding that the presumption of danger is overcome by these conditions, but I'm going to order detention. If the evidence starts being developed and you really think that the picture that's being painted is such that the concerns that I have would be allayed, come back and ask again. It's without prejudice and would be without prejudice anyway, you can always make another application. But I think some better information is needed before I can find this presumption overcome. I feel like there's information out there that we don't have and I --

MS. GALLICCHIO: Oh, there is, apparently

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there is video surveillance in the building that the government certainly could get access to, to monitor whether anyone comes in the building, if that's something that the Court would require.

THE COURT: That's an interesting fact. What if we had home incarceration and can we find out if whatever this surveillance is is video recorded or only live time monitoring and how long it is preserved and whether, in fact, you know, if the government has concern it would be available to them to go back and check over a period of time? I mean, you know, it's an interesting fact but a lot of cameras --

MS. GALLICCHIO: Right, I know, I know, don't record.

THE COURT: You know, may not be recording or may record over itself.

MS. GALLICCHIO: I mean the other thing that I know that he has suggested to me that they could install a video surveillance outside the door of their apartment building that would record, I think they would be, certainly he would be willing to do that and preserve that footage and turn it over on a regular basis. it's certainly an option. That would be the one way to actually monitor who comes in and out of that apartment.

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THE COURT: It's a thought. It's creative.

MR. LI: Your Honor, I mean I think it would be Pretrial that ultimately would have to bear the burden of this, which sounds like pretty constant monitoring and I'm not sure that's something, frankly, that Pretrial has the resources to do. I'd also be concerned, I don't know if this apartment is shared by any other residents or not, but if it's an apartment complex, I would be concerned that other residents of the complex may not be so happy about new cameras being installed in their building.

MS. GALLICCHIO: I'm just saying his door, one that's above his door that he could, obviously it would have to be attached to some point inside the apartment, maintain the footage of, and turn it over on a regular basis to Pretrial.

THE COURT: Thoughts?

MS. GALLICCHIO: Right, I wouldn't want to intrude on the privacy of others.

THE COURT: You've never heard of such a thing?

PRETRIAL SERVICES AGENT: If I'm being totally honest, I would want to speak to a supervisor in the office about this. We've never had this situation, I'm

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not going to say no, I'm not going to say yes, I think it's something we'd have to discuss.

THE COURT: All right, I think it's worth discussing. I'm going to order detention at this time. The reality is that I wouldn't order release without a whole bunch of conditions in place in any event, and Pretrial visiting the home and being assured that it was appropriate and things are doable. So he would not be getting out right now regardless of whether I set conditions. But you can confer with pretrial. If I were to set conditions, apart from all of the mandatory Adam Walsh Act conditions, I would set a condition of home incarceration, but with mental health evaluation and treatment as deemed appropriate by Pretrial Services. So there may be an exception to the home incarceration for medical care which could include mental health care.

PRETRIAL SERVICES AGENT: Yes, as long as you order it, Your Honor.

THE COURT: Right. So I would consider that. And with some kind of, if there was some sort of voluntary surveillance, it would have to be installed in some way that it would not interfere with neighbors and would have to be, you know, clearly trained on the

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2 access point or points to the apartment, I don't know
3 if there is only one door. You know, I'm not
4 listening to Mr. Bright, you speak through counsel for
5 me, but confer with Pretrial and if you have a bright
6 idea as to how we can have assurance that he's not
7 going out and that no minors are coming in to this
8 apartment --

9 MS. GALLICCHIO: I mean Pretrial would know if
10 he's going out because they have the electronic
11 monitor.

12 THE COURT: Right, but that nobody is coming
13 in, okay?

14 MS. GALLICCHIO: Right.

15 THE COURT: I would consider that. I mean my
16 calendar is crazy, but you can come back to me maybe
17 even with a written application if you have something
18 that's concrete in this regard and that Pretrial is
19 willing to do and it seems to work.

20 MS. GALLICCHIO: Okay.

21 THE COURT: All right, if you come back to me,
22 make it something that has all of the mandatory
23 conditions and so on. If I agree, I can so order it
24 without thinking, wait, what else do I need to put in
25 here. The level of, I would increase the level from

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2 home detention to home incarceration. I would enforce
3 it with a GPS monitoring instead of just your regular
4 electronic monitoring. I think the rest of the
5 conditions that are in the Pretrial Services Report
6 are probably all of the conditions. I'm always very
7 reluctant to say no contact with victims or witnesses
8 without knowing who we're talking about so that it's
9 clear to a defendant who he can and who he can't see,
10 but I would say no contact with minors.

11 MS. GALLICCHIO: Right.

12 THE COURT: And are there any family members
13 who are minors, you know, nieces, nephews, anything of
14 that nature?

15 MS. GALLICCHIO: Maybe in the United Kingdom
16 but not here. None that he couldn't avoid.

17 THE COURT: Obviously there would be surrender
18 of passports, plural, if there are two passports, no
19 new applications. A bond, cosigners, all the rest of
20 that, okay?

21 MS. GALLICCHIO: Yes.

22 THE COURT: All right, so you talk about that,
23 I'm ordering detention right now but I'm open to home
24 incarceration. So let me just ask, since his wife is
25 here, you're here, I gather you're being supportive,

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you want him back in the home with you? You're willing to try to make sure he doesn't go anywhere, he shows up in court when he's supposed to, he stays out of trouble, et cetera, et cetera? All right. Well, Mr. Bright, you are fortunate to have your wife standing by you here.

MS. GALLICCHIO: Your Honor, he does receive medication, Wellbutrin, I believe, and Adderall.

THE COURT: All right, well let me --

MS. GALLICCHIO: The marshals have it. Excellent.

THE COURT: All right, hold on. This is 4952, 4992, what's the case number, 4952. That does not look like a 5, I'm going to redo the 5. Do you have specifically what the medications are? Do you have a diagnosis or is it just --

MS. GALLICCHIO: Depression. It's Wellbutrin, W-E-L-L-B-U-T-R-I-N.

THE COURT: Right, do you have the dose?

MS. GALLICCHIO: It's 300 milligrams, 1 tablet daily in the morning.

THE COURT: Okay.

MS. GALLICCHIO: That's it.

THE COURT: Is that the only one?

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MS. GALLICCHIO: That's it. He had been taking, he doesn't have it with him, a medication for ADD. I would also ask that the Court order that he be seen by the mental health department at the prison.

THE COURT: Okay. Preliminary hearing date?

MS. GALLICCHIO: I'm going to ask for a two week date, Your Honor.

THE COURT: June 6th. All right, so no for now but I'll consider it.

MS. GALLICCHIO: Thank you.

THE COURT: If you got me something that works.

(Whereupon the matter is adjourned to June 6,
2019.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, United States of America versus Peter Bright, Docket No. 19mj4952 was prepared using digital electronic transcription equipment and is a true and accurate record of the proceedings.

Carole Ludwig

Signature_____

Carole Ludwig

Date: June 18, 2019